

IC 20-8.1-6.5

Chapter 6.5. Court Ordered Transfers

IC 20-8.1-6.5-1

Court ordered transfers

Sec. 1. Court Ordered Transfers. This chapter concerns the transfer of students for education from one school corporation (transferor corporation) to another school corporation (transferee corporation) in compliance with a court order as described in this section. This chapter applies solely in a situation where a court of the United States or of the State of Indiana in a suit to which the transferor or transferee corporation or corporations are parties has found the following: (a) a transferor corporation has violated the equal protection clause of the Fourteenth Amendment to the Constitution of the United States by practicing de jure racial segregation of the students within its borders; (b) a unitary school system within the meaning of such Amendment cannot be implemented within the boundaries of the transferor corporation; and (c) the Fourteenth Amendment compels the Court to order a transferor corporation to transfer its students for education to one or more transferee corporations to effect a plan of desegregation in the transferor corporation which is acceptable within the meaning of such Amendment. This chapter shall not apply until all appeals from such order, whether taken by the transferor corporation, any transferee corporation or any party to the action, have been exhausted or the time for taking such appeals has expired, except where all stays of a transfer order pending appeal or further court action have been denied.

(Formerly: Acts 1974, P.L.94, SEC.1.)

IC 20-8.1-6.5-2

Definitions

Sec. 2. Definitions. As used in this chapter:

(a) "Transferor corporation", "transferee corporation" and "transferred student" shall mean, respectively, the school corporation transferring students, the school corporation receiving students, and any student transferred pursuant to a court order described in section 1 of this chapter.

(b) "General fund", "capital projects fund", and "debt service fund" shall refer, respectively, to the school corporation funds set up under the provisions of IC 21-2-11, IC 21-2-15, and IC 21-2-4, respectively.

(c) "Class of school" shall refer to a classification of each school in the transferee corporation by the grades taught therein (generally denominated as elementary schools, middle schools or junior high schools, high schools, and special schools such as schools for special education, vocational training or career education). Elementary schools shall include schools containing kindergarten, but for all purposes under this chapter, a kindergarten student shall be counted as one-half (1/2) a student.

(d) "ADM" shall refer to ADM as defined in IC 21-3-1.6-1.1.
(Formerly: Acts 1974, P.L.94, SEC.1.) As amended by P.L.41-1993, SEC.36.

IC 20-8.1-6.5-2.5

Governing body of transferee corporation

Sec. 2.5. (a) As used in this section, "governing body" has the meaning set forth in IC 20-4-10.1-1.

(b) The governing body of a transferee corporation may add two (2) members, one (1) of whom must be a resident of the contributing geographic area within the transferor corporation from which students are being bused, to the transferee corporation's governing body for each transferor corporation that the transferee corporation serves. These members are in addition to the number of members of the governing body who are residents of the transferee corporation.

(c) Each member who is a resident of a contributing transferor corporation added to the governing body of a transferee corporation by this section shall:

(1) be elected by a majority of all registered and eligible voters who vote in each applicable school board election in the school corporation;

(2) have the same qualifications, other than residency or property ownership, that are required for a member of the governing body who is a resident of the transferee corporation; and

(3) serve for the same number of years as members of the governing body who are residents of the transferee corporation.

(d) The members of the governing body of the transferee corporation shall appoint by majority vote the first additional members of a governing body under this section. The members appointed under this subsection serve until replacement members are elected under subsections (e) and (f).

(e) The first elected members of a governing body from a transferor corporation shall be elected at the first election after the members are added under subsection (b):

(1) that occurs in the transferor corporation; and

(2) where one (1) or more members of the governing body of the transferor corporation are elected.

The election shall be conducted in the manner required by law for the conduct of elections of governing bodies of school corporations.

(f) This subsection applies to an additional member of a governing body appointed under subsection (d) to whom subsection (e) does not apply. The first additional elected member of a governing body shall be elected at the first election after the members are added under subsection (b) where one (1) or more members of the governing body of the transferee corporation are elected. The election shall be conducted in the manner required by law for the conduct of elections of governing bodies of school corporations.

As added by P.L.109-1994, SEC.1. Amended by P.L.201-1995, SEC.1.

IC 20-8.1-6.5-3

Transfer tuition

Sec. 3. Transfer Tuition.

(a) The transferee corporation shall be entitled to receive from the transferor corporation transfer tuition for each transferred student for each school year calculated in two (2) parts: operating cost and capital cost. These shall be allocated on a per student basis separately for each class of school.

(b) The operating cost for each class of school shall be based on the total expenditures of the transferee corporation for such class from its general fund expenditures as set out on the classified budget forms prescribed by the state board of accounts, excluding from such calculation capital outlay, debt service, costs of transportation, salaries of board members, contracted service for legal expenses and any expenditure which is made out of the general fund from extracurricular account receipts, for the school year.

(c) The capital cost for each class of school shall consist of the lesser of the following two (2) alternatives: Alternative one shall be based on an amount equal to five percent (5%) of the cost of transferee corporation's physical plant, equipment and all appurtenances thereto (including but not limited to buildings, additions and remodeling thereof, except ordinary maintenance, on-site and off-site improvements such as walks, sewers, waterlines, drives, and playgrounds) theretofore paid or obligated to be paid in the future out of the general fund, capital projects fund, or debt service fund, including but not limited to principal and interest and lease rental payments (or out of funds which were legal predecessors to these funds). Where any item of physical plant, equipment appurtenances, or portion thereof is more than twenty (20) years old at the beginning of the school year, the capital cost thereof shall be disregarded in making such computation. Alternate two shall be based on the amount budgeted from the general fund for capital outlay for physical plant, equipment and appurtenances and the amounts levied for the debt service fund and the capital projects fund, for the calendar year in which the school year ends.

(d) Where an item of expense or cost cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the ADM of each class in the transferee corporation compared to the total ADM therein.

(e) The transfer tuition for each student transferred for each school year shall be calculated by dividing the transferee school corporation's total operating costs and the total capital costs for the class of school in which the student is enrolled by the ADM of students therein. Where a transferred student is enrolled in a transferee corporation for less than the full school year the transfer tuition shall be calculated by the proportion of such school year for which the transferred student is enrolled. A school year for this purpose shall consist of the number of days school is in session for pupil attendance. A student shall be enrolled in a transferee school, whether or not he is in attendance, unless his residence is outside the

area of students transferred to the transferee corporation, or he has been excluded or expelled from school or has been confirmed as a school dropout. The transferor and transferee corporations may enter into written agreements concerning the amount of transfer tuition. Where an agreement cannot be reached the amount shall be determined by the superintendent of public instruction, with costs to be established, where in dispute, by the state board of accounts.

(f) The transferor corporation shall also pay the transferee corporation, when billed, the amount of book rental due from transferred students who are unable to pay the amount thereof. The transferor corporation shall be entitled to collect the amount of such book rental from the appropriate township trustee, from its own funds, or from any other source, in the amounts and manner provided by applicable law.

(Formerly: Acts 1974, P.L.94, SEC.1.) As amended by P.L.41-1993, SEC.37.

IC 20-8.1-6.5-4

Emergency funds for transfer

Sec. 4. (a) Where a transfer is ordered to commence in a school year, where the transferor corporation has net additional costs over savings (on account of any transfer ordered) allocable to the calendar year in which the school year begins, and where the transferee corporation has no budgeted funds for such net additional costs, they may be recovered by one (1) or more of the following methods in addition to any other methods provided by applicable law:

(1) An emergency loan made pursuant to IC 20-5-4-6 to be paid, however, out of the debt service levy and fund, or a loan from any state fund made available therefor.

(2) An advance in such calendar year of state funds, which would otherwise become payable to the transferee corporation after such calendar year pursuant to applicable law.

(3) A grant or grants in such calendar year from any funds of the state made available therefor.

(b) The net additional costs shall be certified by the department of local government finance, and any grant shall be made solely after affirmative recommendation of the tax control board created by IC 6-1.1-19-4.1. Repayment of any advance or loan from the state shall be made in accordance with IC 6-1.1-19-4.5(d). The use of any of the methods enumerated above shall not subject the transferor corporation to the provisions of IC 6-1.1-19-4.7.

(Formerly: Acts 1974, P.L.94, SEC.1.) As amended by Acts 1979, P.L.208, SEC.3; P.L.1-1991, SEC.135; P.L.90-2002, SEC.409.

IC 20-8.1-6.5-5

Transfer tuition; time of payment

Sec. 5. Transfer Tuition - Time of Payment. Transfer tuition for each school year shall be paid by the transferor corporation during the term of the year and following the end thereof in four installments within ten days of the first day of November, February,

May and August, respectively. The first three payments shall be calculated on the basis of estimates based on the previous year's cost per student and the enrollment for the day schools are open in the transferee corporation next preceding the applicable payment date.
(Formerly: Acts 1974, P.L.94, SEC.1.)

IC 20-8.1-6.5-6

Payment and receipt of funds

Sec. 6. Payment and Receipt of Funds. Payment of operating cost shall be paid from and receipted to the respective general funds of the transferor and transferee corporations. Payment of capital costs shall be made by the transferor corporation at its discretion from any fund or source and shall be receipted by the transferee corporation at its discretion either to the cumulative building fund or to the debt service fund.

(Formerly: Acts 1974, P.L.94, SEC.1.)

IC 20-8.1-6.5-7

Transportation

Sec. 7. Transportation. The transferor corporation shall provide each transferred student transportation to and from the school in the transferee corporation to which he is assigned but may require the transferred student to walk a reasonable distance from his home to school or to a transportation pick-up point.

(Formerly: Acts 1974, P.L.94, SEC.1.)

IC 20-8.1-6.5-8

Transportation contracts

Sec. 8. Transportation Contracts. Transportation shall be provided by the transferor corporation to each transferred student in accordance with the provisions of IC 1971, 20-9.1, except that the transferor corporation may contract with the transferee corporation to provide transportation to the transferred students (the transferor corporation paying the costs thereof) and that the transferor corporation, in addition to the other means of financing the purchase of transportation equipment, may make such purchases out of its cumulative building fund.

(Formerly: Acts 1974, P.L.94, SEC.1.)

IC 20-8.1-6.5-9

Transportation costs; state reimbursement

Sec. 9. Transportation Costs — State Reimbursement. Transportation costs for transferred students for each calendar year or for capital outlay and for operations shall be reimbursed by the state to the transferor corporation in the same percent of the total outlay which the distributions to the transferor corporation under IC 1971, 21-3-1.5-3, or from the state flat grant distribution account where it is credited to the general fund, constitute of its total annual general fund appropriations for such year. In this calculation there shall be excluded from general fund appropriations capital outlay,

debt service, and any expenditure which is made out of the general fund from extracurricular accounts. Any amount not thus reimbursed and raised as part of the transferor corporation's general fund levy shall constitute an increase in its base tax levy for such budget year, as otherwise defined and as applied in IC 6-1.1-1-16 and IC 6-1.1-19. In no event shall the state reimbursement for transportation operating expense to the transferor corporation be less than it would receive under applicable law without regard to this section.

(Formerly: Acts 1974, P.L.94, SEC.1.) As amended by P.L.3-1990, SEC.73.

IC 20-8.1-6.5-10

Implementation

Sec. 10. The provisions of this chapter concerning the calculation of transfer tuition, the credits for state distribution, state reimbursement of transportation costs, or other state reimbursement may be implemented by regulation of the state board of education, which shall also adopt rules for the enforcement of the payment of transfer tuition. Such enforcement may include, but is not limited to, the withholding of state support from the transferor corporation for the benefit of the transferee corporation. Any dispute in the amount of transfer tuition or state reimbursement shall be determined, upon application of either the transferor or the transferee corporation, by the state superintendent of public instruction.

(Formerly: Acts 1974, P.L.94, SEC.1.) As amended by P.L.20-1984, SEC.101.